

General Order

Houston Police Department



ISSUE DATE:

June 19, 2020

NO.

400-26

REFERENCE: Supersedes all prior conflicting Circulars and Directives, and General Order 400-26, dated November 4, 2019

SUBJECT: CONDUCTED ENERGY DEVICES

POLICY

The Conducted Energy Device (CED) is intended to control a violent or potentially violent individual while minimizing the risk of serious injury. It is anticipated that the appropriate use of such a device will result in fewer serious injuries to officers and suspects and bring dangerous situations safely and effectively under control. CEDs are intermediate weapons and are not substitutes for lethal force. However, officers who use force against any person shall be able to state in detail the specific reasons for using force. CEDs are authorized for use against suspects who are *actively resisting* or exhibiting *active aggression*, or to prevent individuals from harming themselves or others.

This General Order applies to classified employees only.

DEFINITIONS

Activation. The act of depressing a CED trigger causing the CED to arc or to fire probes.

Active Aggression. A threat or overt act of an assault (through physical or verbal means) coupled with the present ability to carry out the threat or assault that reasonably indicates that an assault or injury to any person is imminent.

Actively Resisting. Physically evasive movements to defeat an officer's attempt at control, including bracing and tensing in an aggressive manner, pushing, or verbally signaling a clear and deliberate attempt to avoid or prevent being taken into or retained in custody. This also includes the suspect persisting with aforementioned activities after being given the opportunity to comply with an officer's commands.

Battery. A CED's digital power magazine.

CED Cycle. Duration of a CED electrical *discharge* following CED *activation*.

CED Incident Checklist. A checklist to be used by supervisors when reviewing and supplementing another officer's incident or supplement report that documents a CED *discharge*.

Conducted Energy Device (CED). A weapon primarily designed to disrupt a subject's central nervous system by means of discharging electrical energy sufficient to cause uncontrolled muscle contractions and override an individual's voluntary motor responses.

Darted. When a suspect is struck by the probes (darts) fired from a CED.

Discharge. The firing of a CED, whether intentional or unintentional, unless specified otherwise. This term includes using a CED in a *drive stun* manner.

Drive Stun. When a CED with no air cartridge or a spent air cartridge is placed in direct contact with the body of an individual or an animal and *discharged*. This is generally the secondary option for a CED.

Excited Delirium. A state of extreme mental and physiological excitement, characterized by extreme agitation, hyperthermia, hostility, exceptional strength, or endurance without fatigue.

Passive Resistance. Physical actions or a lack thereof that do not prevent the officer's attempt to control. It is a tactic of civil disobedience and labor disputes (e.g., a person who remains in a limp, stiff, or prone position, refuses to comply with simple directions, participates in a sit-in, locks arms in a chain, or blocks an entry way).

Secondary Injury. Physical trauma indirectly associated with CED use (e.g., injuries from falls).

Sensitive Area. A person's head, neck, or groin area, or a male or female breast.

Stun. The proper term for using a CED to jam and override the central nervous system or cause uncontrollable contractions of muscle tissue when a suspect is *darted* or *drive stunned*.

Unintentional Discharge. Any time a CED air cartridge fires due to mechanical failure of the device or other inadvertent cause.

1 APPROVED CEDS

Officers shall use only CEDs and CED-related equipment (batteries, air cartridges, and holsters) that are approved by the Training Division. No changes, alterations, or modifications are permitted to the device or the related equipment without specific approval by the Training Division.

Officers with an HPD registered CED shall wear it at all times while wearing the *official classified uniform*, including while working extra employment, except as directed by a supervisor. Officers who regularly work in a uniformed capacity, including crime suppression units, shall wear a CED unless otherwise approved by the assistant chief in the officer's chain of command. Classified commanders have the option to carry their CED. The CED shall be worn in a cross-draw manner as approved by the department.

Officers in plainclothes, whether on or off duty, are not required to carry a CED. However, officers with an HPD registered CED shall wear it when there is an expectation of participating in an arrest situation. Officers in plainclothes, whether on or off duty, who choose to carry a CED shall abide by the same use policies as uniformed officers. A CED carried by an on-duty plainclothes officer shall be carried in an approved holster attached to the officer's belt in a cross-draw manner. Alternatively, these officers may carry a CED in a purse or a pack, but the device shall be housed in an approved holster.

To prevent overheating of a CED, officers shall ensure that the safety switch remains in the down (Safe) position when not in use.

Personal CEDs

For personally owned CEDs, officers may purchase only CED models and related equipment approved by the Training Division. Personal CEDs and air cartridges shall be registered with the department and are subject to the same restrictions, guidelines, and policies as if they were furnished by the department.

The term CED also includes personally owned CEDs.

2 USE OF CEDS

CEDs will not eliminate all physical confrontations with suspects. The CED has limitations and restrictions requiring consideration before its use. Although the CED is generally effective in controlling most individuals, officers should be alert to the potential for failure and be prepared with other options.

Generally, CEDs are not intended to be used when confronting a suspect with a potentially lethal weapon. If an officer is going to attempt to use a CED when encountering a suspect believed to possess a potentially lethal weapon, a secondary officer should be present to provide cover with a firearm. Officers should always remember to use time, distance, numbers, cover and concealment to their advantage.

When practical, officers shall give a warning to a suspect prior to *activating* the CED unless to do so would place any person at risk.

Officers are authorized to use a CED on an animal to prevent injury to themselves or others.

CED Use NOT Permitted

Officers shall not:

- a. Display a CED in an unprofessional or unsafe manner.
- b. Use a CED on individuals presenting only *passive resistance*.
- c. Use a CED on a person in close proximity to gas fumes, methamphetamine labs, aerosol chemical agents, or other flammable or combustible environments.
- d. Discharge a CED from a moving vehicle or at the operator of a vehicle or its occupants.
- e. Mounted Patrol Officers shall not discharge a CED from horseback.

CED Use to Be Avoided Under the Following Conditions

The use of the CED shall be avoided in the following situations unless the totality of the circumstances indicate that other available options reasonably appear ineffective, impractical, or would present a greater danger to the officer, the suspect or others, and the officer reasonably believes that the need to control the individual outweighs the risk of using the CED.

- a. Persons sprayed with any chemical by a person outside the department. HPD policy requires a non-flammable chemical spray.
- b. Deployment simply to protect property against destruction or damage.
- c. Individuals who are handcuffed or otherwise restrained.
- d. Individuals known to be mentally ill, but not *actively resisting* or attempting to harm himself or others.
- e. A person who is obviously or known to be pregnant.
- f. A person known to use internal cardiac devices.
- g. A person who is elderly medically infirm, visibly frail, or a young child.
- h. A suspect who is fleeing, running or moving under momentum. However, officers are justified to use their CED if the situation justifies the increase risk to immediately effect an arrest to protect the public from a violent suspect attempting to avoid apprehension, taking into consideration their surroundings and potential hazards.
- i. An individual who is on an elevated surface, unstable surface, or other location where a fall may cause substantial injury or death.
- j. An individual who is suspected of possessing or wearing an improvised explosive device (IED).

Laser pointing (a.k.a. "red dotting") can be an effective psychological tool. However, officers shall refrain from abusing the use of the CED's laser pointer and shall refrain from intentionally red dotting *sensitive areas*. Officers shall not red dot a person or animal unless the situation warrants the use of a CED.

Minimizing the Risk from CED Exposure

Minimize the number and duration of CED exposures. Officers shall keep *CED cycling* to a minimum, especially against persons displaying symptoms of *excited delirium*, and use the shortest duration of CED exposure necessary to apply authorized restraint devices and effect an arrest. Officers shall constantly reassess the circumstances and the subject's behavior, reaction and resistance after each *CED cycle* and before initiating or continuing the exposure.

Avoid simultaneous CED exposures. Unless an exigent circumstance exists that would cause a reasonable officer to believe prompt action is necessary to prevent serious physical harm to himself or others, officers shall not use multiple CEDs at the same time and no more than one officer should *activate* a CED against a suspect at a time.

Control and restrain immediately. Officers shall begin control and restraint procedures, including during CED exposure, as soon as reasonably safe and practical to minimize the total duration of exertion and stress experienced by the suspect.

Avoid touching probes and wires during CED discharge. Controlling and restraining a suspect during CED exposure may put the discharging officer and those assisting at risk of accidental or unintended shock. Officers shall avoid touching the probes and wires and the areas between the probes during the CED discharge.

3 CED DISCHARGE INSIDE THE CITY LIMITS OF HOUSTON

Unintentional Discharge in Non-Field Situation

If an *unintentional discharge* occurs in a non-field situation (e.g., during roll call) and the supervisor determines the incident was an *unintentional discharge* and there is no injury or damage to property, the supervisor shall forward correspondence to the officer's division commander outlining the circumstances of the *unintentional discharge*. Other reporting requirements outlined in this General Order are not required for such non-field *unintentional discharges*.

Officer's Responsibilities

Except as otherwise noted in this General Order, whenever an officer *discharges* a CED, that officer shall notify the dispatcher, who shall dispatch a supervisor. If the officer is unable to notify a dispatcher, the most senior officer at the scene shall contact dispatch.

The officer shall generate an incident report or supplement an existing incident report. If more than one officer *discharges* a CED during an incident, each officer shall supplement the incident report describing his actions and observations. The incident or supplement report shall document the incident following the guidelines in the *CED Incident Checklist* form and General Order 600-20, **Response to Resistance Reporting**.

In addition, the report shall also:

- a. Specify the number of trigger *activations*.
- b. Describe the location on the suspect's body where the CED made contact either with darts or by *drive stun*.
- c. Identify the person who removed the darts (name and affiliation).

Officers shall download body worn camera data involving CED cases before going off duty.

Emergency Communications Division's Responsibilities

When notified of a CED *discharge*, the dispatcher shall send the officer's supervisor to the scene. If that supervisor is not available (e.g., off duty or on another call), the dispatcher shall send another supervisor from the officer's division to the scene. Should no supervisors from the officer's division be available to respond, the dispatcher shall send a supervisor from the patrol division responsible for the location where the incident occurred.

Supervisor's Responsibilities

The supervisor responding to the scene of a CED incident shall first check to see if anyone is injured. The Houston Fire Department shall be contacted if the suspect has been *darted* in a *sensitive area* or has sustained *secondary injuries*, or if otherwise needed. If the incident involves *serious bodily injury* or death, the scene supervisor shall contact the Command Center.

The scene supervisor shall conduct an inquiry of the CED incident and gather sufficient information to perform the following tasks in addition to the procedures outlined in General Order 600-20, **Response to Resistance Reporting**.

- a. Notify the owner of any animal that was *darted* or *drive stunned*.
- b. Obtain the CED download data before going off duty.
- c. Issue new air cartridges.
- d. Ensure each officer involved wrote any required incident or supplement report before going off duty and that the report contains sufficient details justifying the CED *discharge*.
- e. Ensure data from body worn cameras involving CED cases are downloaded before going off duty.
- f. Upon completion, forward copies of the *CED Incident Checklist*, *Significant Event Report*, CED download data, email confirmation, and the incident and supplement reports to the division commander.

The supervisor's supplement report shall be written using the CED supplement template and shall include all of the following:

- g. Name and employee number of the officers discharging a CED.
- h. Description of location of dart strikes or *drive stun*.
- i. Name and affiliation of the person who removed the darts.
- j. Medical condition of the suspect and where and by whom the suspect was transported.
- k. Make, model, and serial number of the CED and the serial number of the air cartridges used.
- l. CED download data, including the date, time, number of *activations*, and duration of the *CED cycles*. A CED download shall be done for each CED device that was *discharged* during the incident. The date range of the download shall be sufficient to capture the time period from the beginning of the officer's shift until the *discharge*.

The narrative of the supervisor's supplement shall include:

- m. Date and time the supervisor arrived at the scene.

- n. Officer, witness, suspect, or reportee statements that are not already included in the incident or supplement reports.
- o. A brief statement reiterating the officer's justification to *activate* the CED.
- p. A brief statement that the supervisor reviewed the incident report and it contains all of the required facts in accordance with this General Order.

If a supervisor *discharges* a CED, another supervisor shall be dispatched to the scene to conduct the inquiry and complete all required paperwork and notifications.

Command Center's Responsibilities

If the incident involves *serious bodily injury* or death, the Command Center shall contact Homicide Division and Internal Affairs Division.

Division Commander's Responsibilities

Division commanders shall review all CED incidents and *CED Incident Checklists* generated by personnel under their command and ensure the reports contain detailed justification for the CED *activation*. Then division commanders shall approve the *CED Incident Checklists* via the *Response to Resistance* application on the department's Intranet Portal.

4 CED DISCHARGE OUTSIDE THE CITY LIMITS OF HOUSTON

If officers are outside the city limits of Houston and *discharge* their CED, then officers shall immediately contact the law enforcement agency having jurisdiction, appropriate medical personnel, and the HPD Command Center if applicable. See General Order 600-20, **Response to Resistance Reporting** regarding the response and documentation of CED discharges outside the city limits of Houston.

5 CED EVIDENCE

The unique air cartridge number that correlates with the Anti-Felon Identification (AFID) tags shall be documented in all CED incident reports.

CED probes and AFID tags shall be collected and preserved as evidence only for incidents in which:

- a. A suspect has been *darted* in a *sensitive area* or has sustained a *serious bodily injury*.
- b. A suspect has sustained a *secondary injury* needing medical treatment.
- c. An officer has sustained an injury needing medical treatment and the injury is related to the CED incident.
- d. Officers believe the CED evidence may be needed in a future investigation or hearing.

If CED probes are not collected for evidence, they shall not be left at the scene or simply thrown away. Officers shall consider the probes as “used needles” or “sharps” waste and they shall be disposed of in proper “sharps” disposal receptacles located at any jail facility or with permission in any other proper disposal receptacles (e.g., at hospitals and in ambulances).

6 DART REMOVAL

A CED trained officer may remove CED darts from suspects if there is no indication for medical personnel to be called to the scene.

In addition to those situations in which an ambulance would normally be called to a CED scene, medical personnel shall be immediately summoned to the scene if any of the following are true:

- a. A person is *darted* in a *sensitive area*.
- b. A dart is too deeply embedded for easy removal.
- c. The person exhibits an adverse reaction.
- d. The person has a significant *secondary injury*.

7 JAIL BOOKING

Before booking a prisoner who has been *darted*, officers shall notify the jail personnel and jail HPD sergeant that the suspect has been *darted* or *drive stunned* by a CED. “CED Event” shall be entered into the Records Management System (RMS) where the physical condition of the prisoner is noted; and documentation of the jail HPD sergeant that was notified of the event shall be entered into the narrative of the incident report.

8 CED SPARK TEST

Officers shall conduct a five-second spark test at the beginning of their shift in order to keep the internal CED capacitor charged and to avoid a delayed spark or software corruption. Roll call supervisors shall document witnessing spark tests on the roll call sheet and ensure all officers on the sheet conducted a spark test. All other officers carrying a CED on duty, whether in uniform or plainclothes, shall conduct a five-second spark test in front of a supervisor and shall document the test separately. This documentation should be kept for a minimum of 90 *calendar* days.

Uniformed officers working extra employment shall conduct a five-second spark test at the beginning of their extra employment. The test shall be conducted out of public view and shall be documented separately. This documentation should be kept for a minimum of 90 *calendar* days.

Officers may test their CEDs more frequently if there is an operational reliability concern (e.g., the unit gets wet or dropped). When the CED is tested for reliability concerns, a supervisor shall be present and the circumstances regarding the test shall be documented separately, preferably on the roll call sheet.

All officers who are not mandated by General Orders to carry their CED on a daily basis or at extra employment shall conduct a spark test at least once a week. The test shall be documented separately and this documentation should be kept for a minimum of 90 *calendar* days.

9 DAMAGED, MALFUNCTIONING, OR WET CEDS

When replacement of a CED is needed, officers shall follow the replacement procedures outlined in section 10 of this General Order.

Damaged or Malfunctioning CEDs

Officers shall not carry a CED that shows obvious signs of damage (beyond normal wear) or is malfunctioning.

If a CED is dropped or officers think there may be a problem with their CED, they shall conduct a thorough inspection of the unit looking for any possible signs of damage (e.g., broken central information display or a cracked laser or flashlight lens) before it is used.

Warning: Officers are advised even after a CED has been checked and no apparent damage is found, the CED may *unintentionally discharge* when the safety switch is placed in the up (Armed) position.

Wet CEDs

Warning: A CED exposed to extreme moisture may *unintentionally discharge* with the safety switch in the down (Safe) position due to short-circuiting of the electronic components.

Static Electricity

Warning: A CED exposed to extreme amounts of static electricity may *unintentionally discharge* with the safety switch in the down (Safe) position due to short-circuiting of the electronic components.

CED Inspection Procedures

When a CED malfunctions, is suspected of being damaged, or becomes wet or exposed to extreme moisture, officers shall not move the safety switch to the up (Armed) position until the following procedures are performed:

- a. Immediately remove the air cartridge and do not replace it until the device is checked as described below and functions normally.
- b. Remove the CED's *battery*.
- c. Thoroughly inspect the CED for damage or moisture.
- d. If exposed to moisture or rain, wipe the CED thoroughly with a dry cloth.

If there is any visible moisture inside the *battery* well, officers shall follow the procedures outlined in section 10 of this General Order.

If no moisture is found in the *battery* well, officers shall ensure all components are completely dry for at least 24 hours before reinserting the *battery*.

- e. If no damage is detected and the CED is thoroughly dried (after the 24-hour waiting period), insert the *battery* and then place the safety switch in the up (Armed) position. If the weapon *unintentionally discharges* without pulling the trigger, place the safety switch in the down (Safe) position and remove the *battery*. The CED is unsafe and is not to be used in any manner. Officers shall then follow the steps in section 10 of this General Order.
- f. If the weapon does not *discharge unintentionally*, officers shall conduct a full five-second spark test in front of a supervisor. A rapid pulse should occur and the electrical discharge should stop after five seconds. Officers shall conduct the wet and damaged test in front of a supervisor. The supervisor shall document the test on the roll call sheet.
- g. If the CED does not operate normally, place the safety switch in the down (Safe) position, remove the *battery*, and follow the steps in section 10 of this General Order.
- h. If the CED functions normally, place the safety switch in the down (Safe) position and replace the air cartridge. The device can now be carried.

10 CED, BATTERY, HOLSTER, OR AIR CARTRIDGE REPLACEMENT

When any CED equipment (CED, *battery*, holster, or air cartridge) needs replacing for any reason, the following steps shall be followed:

- a. Officers shall immediately notify their supervisor of the reason a replacement is needed.
- b. The supervisor shall determine if a replacement is warranted.
- c. Upon approval from a supervisor, the officer shall report to the Training Division or other designated station to obtain a CED equipment replacement.
- d. CED equipment may be exchanged by only the employee assigned the equipment requiring replacement.

Lost, Stolen, or Damaged CED Equipment

When loss, theft, negligence, or abuse of a CED or any CED equipment occurs, officers and supervisors shall follow the guidelines in General Order 400-18, **Responsibility for City and Other Government Property**. In order for officers to obtain any CED equipment replacement due to loss, theft, negligence, or abuse, they shall follow the procedures listed earlier in this section and also provide copies of the following documents to the replacement location:

- a. The incident report with the serial number of the item (if applicable) listed in the *Article* section.

- b. The supervisor's administrative letter to the division commander. See General Order 400-18, **Responsibility for City and Other Government Property**, for information regarding the administrative letter.
- c. A *Restitution Receipt* from the department's Office of Budget and Finance (if applicable).

CED Equipment Replacement Locations

Officers may obtain all approved CED equipment replacements at the Training Division's CED Unit during its normal business hours, at the Academy Qualification Range after hours, or at the Downtown Division. Air cartridges and batteries are also available at all patrol stations.

11 CED FIRMWARE UPDATES AND DATA DOWNLOADS

Periodic CED firmware updates are necessary to maintain functionality of the CED. The latest firmware number should be displayed on the designated system. Any critical or emergency firmware updates shall be announced by department Circular or mail manager for immediate action.

Division commanders shall ensure that CEDs assigned under their command have data downloads performed twice per year to check for abuse and functionality.

Instructions regarding how to maintain CEDs in good working order, firmware updates, or perform a data download are located on the department's Intranet Portal.

12 AUDITS

Commanders shall periodically conduct random audits of CED data downloads and reconcile response to resistance reports with recorded *activations*. Supervisors shall take necessary action as appropriate when inconsistencies are detected.



Art Acevedo
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